

Applicant: Mercy M. Davidson
Serial No.: 09/604,876
Filed: June 28, 2000
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REMARKS

Claims 1, 3-5, 8, 9, and 12 are pending in the subject application. Claims 3-5, 8, 9, and 12 are allowed. Applicant has hereinabove amended claim 1. Accordingly, upon entry of this Amendment, claims 1, 3-5, 8, 9, and 12 will still be pending and claim 1 will still be under examination.

Support for the amendments to claim 1 is found, *inter alia*, in the specification as follows: page 17, lines 1-19, specifically, see line 15; and page 22, lines 32-33.

Applicant maintains that the amendment to claim 1 does not raise any issue of new matter, and that claim 1, as amended, is fully supported by the specification as originally filed.

Claim Rejection Under 35 U.S.C. §112, Second Paragraph

The Examiner rejected claim 1 under 35 U.S.C. §112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated that the term "obvious" in claims 1 is a relative term which renders the claim indefinite.

In response, applicant respectfully traverses. Nevertheless, applicant without conceding the correctness of the Examiner's rejection and to expedite prosecution of the subject application, has hereinabove amended claim 1 such that it no longer recites the term "obvious." Therefore, applicant respectfully requests that the

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Examiner reconsider and withdraw this ground of rejection.

Claim Rejection Under 35 U.S.C. §102(b)

The Examiner maintained the rejection of claim 1 under 35 U.S.C. §102(b) as allegedly anticipated by Wang et al. (In Vitro Cellular and Developmental Biology 27(1): 63-74, 1/1991; "Wang").

In response to the Examiner's rejection, applicant respectfully traverses.

Under 35 U.S.C. §102(b), and as stated in M.P.E.P. §2131.01, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Thus, for Wang to anticipate the cell line of claim 1, it would have to teach each and every element thereof.

Wang fails to do this.

Briefly, claim 1, as amended, provides for an immortalized human undifferentiated **hybrid** cardiomyocyte cell line, wherein the cell line (a) is driven by the cardiomyocyte nucleus, (b) expresses β -myosin heavy chain, connexin-43, and desmin, (c) does not exhibit voltage-activated conductances in whole-cell voltage-clamp recordings, (d) comprises a replicable vector that expresses SV-40 large T antigen, and (e) is produced by a method comprising the step of fusing a post-mitotic

primary non-immortalized human cardiomyocyte obtained from adult human heart tissue with a human fibroblast, the fibroblast (i) having been treated with ethidium bromide; (ii) comprising a replicable vector expressing SV40 large T antigen which confers immortality on a cell comprising same; and (iii) being free of mitochondrial DNA.

Wang teaches a human cardiac myocyte cell line ("W1") derived from fetal cardiac tissue. W1 is produced by cotransfecting fetal cardiac myocytes with the plasmids pSV2Neo and PRSVTag, using a calcium phosphate procedure (Wang, pages 63 [abstract] and 64). Nowhere does Wang teach an immortalized human undifferentiated **hybrid** cardiomyocyte cell line which is a post-mitotic primary non-immortalized human cardiomyocyte obtained from adult human heart tissue fused with a fibroblast cell containing a replicable vector that expresses the SV40 large T antigen (page 17, lines 1-19 of the subject specification).

As demonstrated above, the claimed cell line is not the same as the W1 cell line of Wang, and the Examiner has not established any teaching to the contrary. Therefore, Wang fails to anticipate the cell line of claim 1.

In view of the above remarks, applicant maintains that claim 1 satisfies the requirements of 35 U.S.C. §102(b). Therefore, applicant respectfully requests that the Examiner reconsider and withdraw this ground of rejection.

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Summary

Applicants maintain that claim 1, as amended, is in condition for allowance. Accordingly, allowance is respectfully requested.

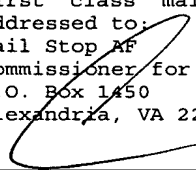

If a telephone conference would be of assistance in advancing prosecution of the subject application, applicant's undersigned attorneys invite the Examiner to telephone them at the number provided below.

No fee is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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